IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 7048 of 2005

Between:

M/s.Shankar Milling Industry, Ramachandrapur Bazar, PO JATNI-752 050, District:Khurda, Orissa State, Rep., by its Authorised Signatory, K.Kesava Rao.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, A.P., Hyderabad.
2 The Prohibition and Excise Superintendent, Visakhapatnam District at Visakhapatnam.
3 The Prohibition and excise Superintendent, Srikakulam District at Srikakulam.
4 The Chodavaram Cooperative Sugars Ltd., Govada, Visakhapatnam District.
5 G.M.R.Industry Ltd., Sankili, Srikakulam District.
6 The E.C.A.& IS Ltd., Etikoppaka, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of mandamus, declaring that the respondents have no jurisdiction to cause any restriction on the transport of Molasses by the petitioner from Andhra Pradesh State to any other place in the other States in India as such restriction is illegal and without jurisdiction apart from being violative of Article 19 (1)(g) of the Constitution of India.

Counsel for the Petitioner:MR.E.MARUTHI RAJA

Counsel for the Respondents 1 to 3: GP FOR PROHIBITION & EXCISE

The Court at the admission stage made the following :

ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise appearing on behalf of respondents 1to 3.

The petitioner seeks a writ of Mandamus declaring that the respondents have no jurisdiction to restrict the transport of Molasses by the petitioner from the State of Andhra Pradesh to any other place within the State to other States.

In similar circumstances, a learned Judge of this Court disposed of W.P.No.19740 of 2004, by order, dated 28.10.2004, having regard to the fact that the issue involved in the said wit petition is squarely covered by the decision of this Court in W.P.No.8136 of 2004 **[M/s. Gauri Industries (Manufacturers of Rectified Spirit) v. Commissioner of Prohibition and Excise, Andhra Pradesh]**, wherein it was held as under:

> "It is a fact that the possession as well as transportation of Molasses was being controlled by the Molasses Control Order, issued by the Central Government. But, however, the said Control Order was rescinded by the Central Government as early as in 1993. Thereafter, there were no provisions either in the A.P.Excise Act or under any Rules framed by the State Government and this fact was clarified by a Division Bench of this Court in Writ Appeal No.2209 of 1998, dated 08.05.2001.
>
> The restriction of transportation of molasses is only if it is intended for utilization of illicit distillation and on such occasions only the respondent authority can take action. But, however, if any individual is transporting the Molasses under a valid purchase bills to the destination of the purchaser, the respondents authority have no right to interfere with such transportation.
>
> Therefore, the writ petition is disposed of clarifying the position that the respondents have no right to insist the petitioner for any permission or for obtaining NOC for transport of Molasses from the Sugar Factories to any other specified destination for being used by the purchaser"

Accordingly, the present writ petition is disposed of at the stage of admission with the same directions/observations and clarifications extracted supra.

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04.04.2005

Jsu/Krk

To

1 The Commissioner of Prohibition & Excise, A.P., Hyderabad.
2 The Prohibition and Excise Superintendent, Visakhapatnam District at Visakhapatnam.
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7 2 CCs to the G.P for Prohibition and Excise, High Court Buildings, Hyderabad. (OUT)

8 2 CD copies